

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

GREG SOUTHALL,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 1:21-CV-0039-HAB-SLC
)	
AVI FOOD SYSTEMS, INC.,)	
)	
Defendant.)	

**OPINION AND ORDER ADOPTING THE MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION**

This matter is before the Court for an Order on the Magistrate Judge’s Report and Recommendation (“R & R”) (ECF No. 46) wherein the Magistrate Judge recommends the Court GRANT the Defendant’s Motion for Summary Judgment (ECF No. 38). Alternatively, the Magistrate Judge recommends that this case be DISMISSED *sua sponte* as a sanction against Plaintiff under Federal Rules of Civil Procedure 16(f) and 37(b)(2)(A)(v), and for failure to prosecute under Rule 41(b). The parties had fourteen days after being served with a copy of the R & R to file written objections thereto with the Clerk of Court. No objections to the R&R have been filed.

The undersigned has reviewed the Magistrate Judge’s R & R and the conclusions therein relating to the Defendant’s Motion for Summary Judgment. The Magistrate Judge properly concluded that Plaintiff’s race discrimination claim under 42 U.S.C. §1981 is time-barred and that even if permitted to proceed, Plaintiff fails to show that his race was the “but-for cause” of his termination. The Court finds the above determination by the Magistrate Judge is thoughtfully

discussed in the R & R and stands on a legally sound basis. The R & R is APPROVED AND ADOPTED. (ECF No. 46).¹

Defendant's Motion for Summary Judgment (ECF No. 38) is GRANTED. The Clerk is directed to enter judgment in favor of the Defendant.

SO ORDERED on August 18, 2022.

s/ Holly A. Brady

JUDGE HOLLY A. BRADY
UNITED STATES DISTRICT COURT

¹ The Court further agrees that the Magistrate Judge's recommendation that the case be dismissed sua sponte as a sanction is also well-taken. However, because this is an alternative recommendation, the Court will uphold the R&R on the merits of the Plaintiff's case.